

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 15, 2021

1:28 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Roger Holland, Vice Chair
Senator Joshua Revak
Senator Gary Stevens
Senator Elvi Gray-Jackson

MEMBERS ABSENT

All members present.

COMMITTEE CALENDAR

SENATE BILL NO. 69

"An Act extending an exemption from regulation as a public utility for plants and facilities generating electricity entirely from renewable energy resources; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 69

SHORT TITLE: EXEMPT RENEWABLE ENERGY ELECTRIC PLANTS

SPONSOR(S): SENATOR(S) REVAK

02/03/21	(S)	READ THE FIRST TIME - REFERRALS
02/03/21	(S)	L&C
02/10/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/10/21	(S)	<Bill Hearing Canceled>
02/15/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DIRK CRAFT, Staff
Senator Josh Revak
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information about SB 69 on behalf of the sponsor.

BOB PICKETT, Commissioner
Regulatory Commission of Alaska (RCA)
Department of Commerce, Community and Economic Development
Palmer, Alaska

POSITION STATEMENT: Provided information and answered questions related to SB 69.

BERNIE KARL, representing self
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 69.

DUFF MITCHELL, Executive Director
Alaska Independent Power Producers Association (AIPPA)
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 69.

SUZANNE SETTLE, Vice President
Energy, Land and Resources
Cook Inlet Region, Inc. (CIRI)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 69.

JENN MILLER, CEO
Renewable IPP
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 69.

ACTION NARRATIVE

[1:28:44 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:28 p.m. Present at call to order were Senators Revak, Stevens, Gray-Jackson, Holland, and Chair Costello.

SB 69-EXEMPT RENEWABLE ENERGY ELECTRIC PLANTS

[1:29:27 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 69, "An Act extending an exemption from regulation as a public utility for plants and facilities generating electricity

entirely from renewable energy resources; and providing for an effective date."

[1:29:52 PM](#)

SENATOR REVAK, speaking as sponsor of SB 69, stated that this legislation extends a regulatory exemption for renewable energy produced by independent power producers (IPPs), which has been in statute since 2010. This exemption encourages private sector investment in smaller than 65-megawatt renewable energy projects across the state.

He explained that for the last 10 years Alaska has exempted small power producers from certain regulations provided they sell power on a wholesale basis to regulated utilities that distribute power to local customers. The renewable projects affected by the exemption cannot have received any state grants or tax credits. This exemption has been successful; it reduces cost of entry barriers, provides jobs, and encourages investment across the state. SB 69 has received little criticism and overwhelming support; it simply extends the existing exemption that is due to expire on July 1, 2021.

[1:33:18 PM](#)

SENATOR GRAY-JACKSON asked what the criticism has been.

SENATOR REVAK replied there were questions rather than criticism about the potential to game the system using state grants and tax credits. The concern is baseless because state law does not allow renewable projects affected by the exemption to receive either state grants or tax credits. He reiterated that the exemption has been in effect for 10 years and no issues have been identified that relate to any of the questions that have been asked.

SENATOR GRAY-JACKSON asked if the bill exempts larger projects than previously.

SENATOR REVAK answered no; SB 69 simply extends the existing exemption for ten years.

[1:35:41 PM](#)

CHAIR COSTELLO asked what regulations are exempted, who has used this program, and the cost of energy being provided.

SENATOR REVAK deferred to his staff, Dirk Craft.

[1:36:10 PM](#)

DIRK CRAFT, Staff, Senator Josh Revak, Alaska State Legislature, Juneau, Alaska, listed the following renewable projects that have benefitted from the AS 42.05.711(r)(2) exemption: Fire Island Wind Project at 17 megawatts is the largest, the Willow solar project, and Juniper Creek Hydro at Sweetwater Lake. He deferred to Commissioner Bob Pickett to discuss the specific regulatory exemptions.

CHAIR COSTELLO asked for a list of everyone who had benefited from the exemption and reminded him that she also asked about the cost of the energy the IPPs provide.

MR. CRAFT agreed to provide the list and deferred the discussion about cost to Commissioner Pickett.

[1:37:48 PM](#)

SENATOR STEVENS asked how many times the exceptions have been granted.

MR. CRAFT offered to follow up with the information.

[1:38:18 PM](#)

BOB PICKETT, Commissioner, Regulatory Commission of Alaska (RCA), Regulatory Commission of Alaska (RCA), Palmer, Alaska, confirmed that Fire Island was the largest exempted project to date. He explained that when the commission looks at a power purchase agreement, they evaluate it essentially in terms of the avoided fuel costs to the regulated utility. He recalled that when the RCA approved CIRI's Fire Island Wind Project, the costs came in relatively close to Chugach Electric's other avoided costs at the time.

MR. PICKETT added that the RCA economically regulates about 32 of the 128 certificated electric utilities in the state, so the commission has to approve the power purchase agreements for those 32 utilities. He said it would be helpful to have a little legislative clarity about what the commission would be asked to do for these other non-economically regulated utilities subject to AS 42.05.711(r)(2). He acknowledged that the commission has a bit of insight into those through the Power Cost Equalization Program filings.

CHAIR COSTELLO asked if some of the applicants receive benefit through the Power Cost Equalization Program.

MR. PICKETT replied that is probably an overstatement. He explained that when the RCA evaluates Power Cost Equalization

filings, they look at actual fuel costs and non-fuel costs that the utility incurs. The RCA evaluates the non-fuel costs in terms of reasonableness compared to a regulated electric utility.

CHAIR COSTELLO asked what specific regulations are exempted so that these projects can be viable.

MR. PICKET requested clarification of the question.

CHAIR COSTELLO said the sponsor said regulations are essentially being waived for these projects.

[1:42:36 PM](#)

MR. PICKETT replied the sponsor was probably referring to the fact that the independent power producers would not have to secure a certificate of public convenience and necessity (CPCN), which takes time and effort, and they would be exempted from other filing requirements and annual reporting to the commission.

CHAIR COSTELLO asked for a list of the other exempted regulations that apply to the IPPs.

MR. PICKETT agreed to provide the information.

[1:43:23 PM](#)

SENATOR STEVENS asked if the majority of the IPPs are much smaller than the 17 megawatt Fire Island projet.

MR. PICKETT agreed that most are quite small. Fire Island is 17 megawatts but originally it had the ability to expand to 55 megawatts, he said.

SENATOR STEVENS restated his question.

MR. PICKETT said they largely seem to be less than 10 megawatts, although project sponsors would like something larger.

[1:44:49 PM](#)

SENATOR GRAY-JACKSON asked if the bottom line to qualify is less than 65 megawatts.

MR. PICKETT replied that is correct.

CHAIR COSTELLO asked how anybody would know if the IPP expanded beyond 65 megawatts.

1:45:25 PM

MR. PICKETT explained that the RCA would know because the economically regulated utility would have to file an amended power purchase agreement with that information in the filing.

SENATOR HOLLAND asked for the length of the exemption.

SENATOR REVAK answered that this is about the regulations related to start up such as the ones that Mr. Pickett mentioned.

1:46:41 PM

CHAIR COSTELLO asked for the estimated cost to apply for the certificate of public convenience and necessity (CPCN) and the other filings. She said her impression was that it was a costly and time-consuming process and she was trying to understand the benefit of exempting these small IPPs from these requirements.

MR. PICKETT responded that the complexity of a CPCN filing is tied directly to the complexity of what the entity is asking to be allowed to do. By statute, the RCA must make a finding that the applicant is fit willing and able to do everything they say they will do in the filing. The evaluation covers a range of things and the package must be well supported technically, legally, and for engineering; there is time and money invested in putting these packages together.

1:48:25 PM

CHAIR COSTELLO asked if it would better serve the public purpose to require every project to be deemed fit willing and able.

MR. PICKETT explained that when a regulated utility submits a power purchase agreement to the commission, their certificate is on the line. They have the ultimate responsibility to perform adequately, safely, and responsibly to not affect the reliability of their system.

SENATOR STEVENS asked if a regulated utility could get a portion of their power from an unregulated utility.

MR. PICKETT answered yes. For example, Chugach Electric has been receiving power from the Fire Island Wind Project for 8-9 years. It is Chugach's responsibility to blend that power into their system and ensure there are no reliability or adequacy issues associated with doing that.

SENATOR REVAK explained that when this exemption became law ten years ago, Alaska was the only state that extended the regulatory authority of the RCA to independent power producers (IPPs). In other states, it is the utilities that purchase power from IPPs that are subject to the regulatory commission oversight.

1:51:57 PM

CHAIR COSTELLO opened public testimony on SB 69.

1:52:19 PM

BERNIE KARL, representing self, Fairbanks, Alaska, said he is with Chena Power and while they do not use the exemption, he sees the benefit. He opined that extending the exemption will enhance investment in Alaska for renewable energy.

1:53:06 PM

DUFF MITCHELL, Executive Director, Alaska Independent Power Producers Association (AIPPA), Juneau, Alaska, said AIPPA is a diverse group of many IPPs. He pointed out that IPPs represent about 39 percent of the electrical generation in the US, but it is less than 10 percent in Alaska. Alaska ranks last nationally in IPP power supply and it has the second highest cost of electricity. He said IPPs are not successful unless they can meet or beat the cost of an incumbent utility. As commissioner Pickett mentioned, the RCA must approve all power sales agreements, which means that they review the IPP contract through the incumbent utility.

MR. MITCHELL pointed to the research from Legislative Research Services that queried other states and found that Alaska is the only state that extends regulatory oversight to IPPs. The federal government exempts IPPs up to 65 megawatts from Federal Energy Regulatory Commission (FERC) regulations.

MR. MITCHELL highlighted that the U.S. Energy Administration projects that the renewable energy mix in the U.S. will double by 2050. He emphasized that Alaska has more renewable energy resources than any state in the nation and it needs to be on the right glide path to be part of that projection. He said SB 69 sends a strong signal to the energy investment market that Alaska supports private capital investment in developing its renewable energy resources with the regulatory consistency of other states.

He restated the expense of arguably duplicative regulation that could be onerous to small companies, and reminded members that AS 42.05.711(r)(2) does not preclude future IPP regulation. He urged the committee to pass SB 69.

1:58:38 PM

SUZANNE SETTLE, Vice President, Energy, Land and Resources, Cook Inlet Region, Inc. (CIRI), Anchorage, Alaska, informed members that CIRI worked with former Senator Lesil McGuire to enact the initial exemption and they successfully completed construction of the Fire Island Wind Project in 2012. The exemption eliminated significant operating and cost uncertainty and made CIRI's investment in the project feasible. It produces about 4 percent of the energy requirement for Chugach Electric prior to the acquisition of (ML&P) [Municipal Light & Power].

She stated support for SB 69 to extend the term of the tested and successful exemption. She confirmed previous testimony that no other state regulates IPPs that sell power to a regulated utility. She reminded members that IPP projects are dependent on successfully negotiating a power purchase agreement with a regulated utility and RCA approval of that contract.

2:01:22 PM

SENATOR STEVENS asked what time, money, and labor CIRI saved by not having to go through the regulatory process.

MS. SETTLE replied it would have been expensive to create the application for a CPCN and the cost of the recurring filings would have been uncertain and potentially burdensome. "It adds a huge question mark and I can't put a number on it because I just don't know," she said.

2:02:53 PM

JENN MILLER, CEO, Renewable IPP, Anchorage, Alaska, stated that this Alaska-grown small business develops utility-scale solar farms. She provided information about the Willow solar farm and the upcoming Houston solar farm to illustrate the benefit of extending the exemption.

She explained that the 1.2-megawatt Willow solar project was constructed in 2019 at a cost of \$1.5 million. Renewable IPP worked with Matanuska Electric Association (MEA) to complete detailed grid studies, an interconnection agreement, and a power purchase agreement. The RCA reviewed and approved the power purchase agreement, which sells power at MEA's avoided cost. This regulatory oversight ensured fair pricing for consumers.

She said this is a simple and efficient operation and the existing regulatory environment made the investment attractive.

MS. MILLER reported that Renewable IPP is now embarking on the Houston solar farm, which is roughly 7 times the size of Willow and will nearly double the solar capacity in the state. They completed similar steps for this \$8-10 million project as the Willow project with the substantial exception that this project will come online after the current regulatory exemption expires. She said they petitioned the RCA to request the exemption and an expedited decision to facilitate construction in 2021. The RCA granted the exemption within 90 days. She said she could not ask for a better outcome, but the unknown regulatory environment introduced significant uncertainty to the project. The potential investors in this project are comparing it to projects in other states, none of which require regulation of IPPs. This makes projects in Alaska less attractive.

MS. MILLER stated that if the RCA had not granted the exemption for the Houston project, Renewable IPP would be required to pay a regulation fee on the energy it sells. They would also be required to do quarterly filing, which would require additional legal and support staff. From the investor's perspective, this makes Alaska projects more complex, expensive, less economic, and less attractive overall, she said. She pointed out that wind and solar are the cheapest forms of new energy and that there will be significant private and federal investment in these projects in the next decade. She emphasized that extending the existing regulatory environment will keep Alaska projects on a level playing field for investments and is critical to diversify the economy, reduce the carbon footprint, and provide jobs for Alaskans.

[2:07:14 PM](#)

CHAIR COSTELLO closed public testimony on SB 69 and held the bill in committee.

[2:08:15 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:08 p.m.